



UNITED STATES PATENT AND TRADEMARK OFFICE

9817
21
7193

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/483,579 | 01/14/2000 | Bruce A. Fogelson | 77752 | 8561 |

7590

06/10/2002

WELSH & KATZ LTD
120 South Riverside Plaza
22nd Floor
Chicago, IL 60614

EXAMINER

MCALLISTER, STEVEN B

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/483,579

Applicant(s)

Fogelson

Examiner

Steven McAllister

Art Unit

3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2167

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 is indefinite because the preamble recites the subcombination of “servicing of a customer of a contractor by a third-party website provider”, but the body of the claim recites the combination of method steps by the third party website provider and steps independent of the website provider such as “exchanging design files between the builder and a third party contracting designer”. It is unclear whether the applicant intended to claim the combination or the subcombination. The claim should be rewritten to positively recite either the combination or subcombination. In examining the claim, it was assumed that the subcombination was claimed.

Art Unit: 2167

Claim 20 is indefinite because the preamble recites the subcombination of “servicing of a customer of a contractor by a third-party website provider”, but the body of the claim recites the combination of method steps by the third party website provider and steps independent of the website provider such as “exchanging product files among the builder, suppliers and manufactures using a common file format”. It is unclear whether the applicant intended to claim the combination or the subcombination. The claim should be rewritten to positively recite either the combination or subcombination. In examining the claim, it was assumed that the subcombination was claimed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 14, 16-18, 21-26, and 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by ftd.com.

Ftd.com shows a providing a third party website by a third party for ordering and selecting options available from a contractor (in this case a florist); receiving an option from the customer; and selecting a fee based on the selection.

As to claim 3, it is noted that the fee is collected from the contractor.

Art Unit: 2167

As to claims 4 and 6, it is noted that the website has webpages associated with a features offered by the contractor, such as various arrangements.

As to claim 5, the webpage shows a plurality of options such as different colors or standard/premium arrangements.

As to claim 14, it is noted that an advertisement for American Airlines is disclosed.

As to claim 16, it is noted that the website is customized to show the contractors' product offerings by providing a link to the contractor's site.

As to claim 17, it is noted that upselling options are shown.

As to claim 18, it is noted that another web site is shown featuring general features provided by the contractor.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over ftd.com.

Art Unit: 2167

As to claims 7, 8, 27, 28 and 38, ftd.com shows all elements of the claim except providing a hyperlink to a manufacturer and charging a commission on a sale based on activation of the link. However, it is notoriously old and well known in the art to provide link to a manufacture or vendor and charge a commission based on the sale based on the activation of the link. It would have been obvious to one of ordinary skill in the art to modify the method ftd.com by providing such a link in order to increase revenues.

As to claims 9-13, 29-32, ftd.com shows all elements of the claim except providing a second website for access by the contractor selected by the customer for entry of information related to the customer. However, it is old and well known in the art to have a second web page as such an interface. It would have been obvious to one of ordinary skill in the art to modify the method of ftd.com by adding such a web page to allow the selected contractor to enter information such as verification of delivery of a customer's order.

As to claim 15, ftd.com shows all elements of the claim except charging a commission to the vendor for displaying the advertisement. However, it is notoriously old and well known in the art to charge a commission for an advertisement. It would have been obvious to one of ordinary skill in the art to do so in order to increase revenues.

Art Unit: 2167

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. .

Rose (5930769) shows presentation of options on website.

Abel et al (5852809) shows describes third party commission websites in prior art.

Bernard et al (5918213) shows a commission website.

Henson (6167383) shows presentation of options on website.

Smith et al (6052669) shows presentation of options on website.

Dedrick (5752238) shows web site.

McDonough et al (6070142) shows virtual customer sales center.

Long et al (5117354) show communication of options to manufacturer.

Tagawa (5732398) shows self service sales system.

Donald et al (5053956) shows presentation of options.

Wexford Homes website shows builder website with interactive option presentation.

Art Unit: 2167

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.


Steven B. McAllister

May 28, 2002